



United States Attorney
Southern District of New York

86 Chambers Street, 3rd Floor
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February 20, 2024

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By ECF

The Honorable Barbara Moses
United States Magistrate Judge
Southern District of New York
500 Pearl St.
New York, NY 10007

MEMO ENDORSED

Re: *Acosta v. United States of America, et al.*, No. 23 Civ. 3551 (VSB)

Dear Judge Moses:

This Office represents the United States of America (the “United States”) in connection with the above-referenced action brought by plaintiff Ernesto Acosta (“Plaintiff”) pursuant to the Federal Tort Claims Act (“FTCA”), alleging negligence in connection with medical care and treatment provided to decedent Tienet Acosta in January 2020. We write respectfully, with consent of all parties, to request an adjournment of the settlement conference currently scheduled before Your Honor on February 28, 2024. As explained in more detail below, fact discovery is ongoing, with several depositions scheduled for next week, and we believe that a settlement conference is more likely to be productive after the parties have completed fact discovery.

Pursuant to the original Case Management Plan and Scheduling Order (“CMP”) in this case, fact discovery was set to conclude on December 31, 2023 (ECF No. 55), and Your Honor initially scheduled a settlement conference for December 6, 2023 (ECF No. 58). On September 19, 2023, the United States filed a Third-Party Complaint naming New York City Health and Hospitals Corporation (“NYCHHC”) and Deborah Conway (“Dr. Conway”) as third-party defendants. (ECF No. 64.) Under an Amended CMP, fact discovery is to be completed by March 1, 2024. (ECF No. 78.) The parties requested and were granted an adjournment of the December 6, 2023, settlement conference to the current date of February 28, 2024, at 2:15 p.m. (ECF 81.)

Over the past several months, the parties have been working diligently to complete fact discovery. Nevertheless, a number of key depositions have not yet been completed, including the depositions of the two defendant doctors, Dr. Loretta Settonni and Dr. Conway; a doctor employed by the United States Department of Veterans Affairs; and the decedent’s daughter. The parties anticipate that these depositions will be completed next week. We believe that a settlement conference is more likely to be successful if it occurs after the parties have the benefit of these depositions.

Accordingly, we respectfully request to adjourn the February 28, 2024, settlement conference to April 8, 9, or 11, 2024. Pursuant to paragraph 6 of the Order Scheduling Settlement Conference (ECF No. 58), the undersigned called chambers today and confirmed the Court’s availability on these dates.

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We thank the Court for its consideration of this request.


Respectfully submitted,

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Southern District of New York

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Application GRANTED. The settlement conference scheduled for February 28, 2024 is ADJOURNED to **April 9, 2024**, at **2:15 p.m.** The parties must submit their acknowledgment forms and confidential settlement letters to chambers, via email, no later than **April 2, 2024**. (See Dkt. 58 ¶¶ 3-4.) SO ORDERED.



Barbara Moses
United States Magistrate Judge
February 21, 2024